

AMENDMENT UNDER 37 C.F.R. § 1.111  
U.S. Appln. No. 09/929,066

**REMARKS**

The present invention relates to a process for producing a superoxide scavenger and preparation thereof. The present invention also relates to a process for producing a beverage containing the superoxide scavenger.

In the present Amendment, claims 1-4, 7 and 8 have been amended as process claims. Support for these amendments can be found, for example, on page 2, last two full paragraphs and the Example at page 4 et seq.

No new matter has been added, and thus entry of the present Amendment is respectfully submitted to be proper. Upon entry of the Amendment, claims 1-4, 7 and 8 will be all the claims pending in the application.

At page 2 of the Office Action, claims 1-4 were rejected under 35 U.S.C. §102(b) as allegedly anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly obvious over Qian (CN 1123833) or Kaneko (JP 57-125669). Further, at page 3 of the Office Action, claims 1-4 were rejected under 35 U.S.C. §102(b) as allegedly anticipated by Hattori et al (JP 58-152,458).

Applicants respectfully submit that the amended claims are not anticipated or obvious over the cited references for the following reasons.

AMENDMENT UNDER 37 C.F.R. § 1.111  
U.S. Appln. No. 09/929,066

Qian discloses a process for brewing beer from a soybean protein liquid. Kaneko discloses a process for producing fermented food product from rice and soybean. JP '458 discloses a method for producing soya milk.

None of the cited references discloses or suggests a process for producing a superoxide scavenger or a beverage containing a superoxide scavenger, as presently claimed. Accordingly, the present invention is not anticipated or obvious over the cited references, and thus the rejections should be withdrawn.

At page 4 of the Office Action, claims 1-4 and 7-8 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting, as allegedly being unpatentable over claims 1-10 of copending Appln. No. 09/929,064.

Applicants respectfully submit that the amended claims are not obvious over Appln. No. 09/929,064. The claims in Appln. No. 09/929,064 are directed to a cosmetic comprising a superoxide scavenger, but the claims of Appln. No. 09/929,064 are not directed to a process for producing a superoxide scavenger or a beverage containing a superoxide scavenger, as presently claimed. Accordingly, the provisional rejection should be withdrawn.

AMENDMENT UNDER 37 C.F.R. § 1.111  
U.S. Appln. No. 09/929,066

In view of the above, reconsideration and allowance of claims 1-4, 7 and 8 are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the local telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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